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July 18, 2008

VIA ECF

The Honorable Colleen McMahon, U.S.D.J.
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 640
New York, New York 10007

Re: FaceTime Communications, Inc. v. Reuters Limited
Civil Action No.: 08-4730 (CM)

Dear Judge McMahon:

We are counsel for Plaintiff FaceTime Communications, Inc. On behalf of FaceTime and Defendant Reuters, and in connection with the upcoming conference before Your Honor on July 25, enclosed is the parties' proposed civil case management plan.

As Your Honor knows, both FaceTime and Reuters have filed dispositive motions that are currently pending. Accordingly, the parties have agreed that the discovery-related dates in the proposed case management plan will become effective only if the dispositive motions are denied -- given that, among other things, Your Honor's ruling on the pending motions could decide this dispute, or at the very least narrow the issues in the case. If the motions are denied, the parties have agreed that all discovery will be completed within six months of Your Honor's decision.

The parties look forward to discussing this case with Your Honor at the July 25 conference.

Respectfully submitted,



Steven M. Hecht

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Enclosure

cc: James F. Rittinger, Esq. (via E-mail; w/encl.)
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Jason Halper, Esq.

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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

FACETIME COMMUNICATIONS, INC.,

Plaintiff,

v.

REUTERS LIMITED,

Defendant.

DOCUMENT ELECTRONICALLY FILED

Civil Action No. 08-4730 (CM) (KNF)

CIVIL CASE MANAGEMENT PLAN

After consultation with counsel for all parties, the following Case Management Plan is adopted. This plan is also a Scheduling Order pursuant to Rules 16 and 26(f) of the Federal Rules of Civil Procedure.

1. This case is to be tried by a jury.
2. Discovery pursuant to Fed. R. Civ. P. 26(a) shall be exchanged **within 10 business days** of Court's decision on the parties' pending dispositive motions.
3. No additional parties may be joined after **August 31, 2008**.
4. No pleading may be amended after **September 30, 2008**.
5. If your case is brought pursuant to 42 U.S.C. § 1983: In keeping with the United States Supreme Court's observation that the issue of qualified immunity should be decided before discovery is conducted, counsel representing any defendant who intends to claim qualified immunity must comply with the special procedure set forth in Judge McMahon's individual rules, which can be found at www.nysd.uscourts.gov.

Failure to proceed in accordance with the qualified immunity rules constitutes a waiver of the right to move for judgment on the ground of qualified immunity prior to trial. *Please identify any party who is moving to dismiss on qualified immunity grounds.* **Not applicable.**

6. All discovery, *including expert discovery*, must be completed **within 6 months** of the Court's decision on the parties' pending dispositive motions. PLEASE NOTE: the phrase "all discovery, including expert discovery" means that the parties must select and disclose their experts' identities and opinions, as required by Fed. R. Civ. P. 26(a)(2)(B), *well before* the expiration of the discovery period. Expert disclosures conforming with Rule 26 must be made no later than the following dates: Plaintiff(s) expert report(s) **60 days** before the end of the discovery period; Defendant(s) expert report(s) **30 days** before the end of the discovery period.

7. Judge McMahon's Rules governing electronic discovery apply automatically to this case. The parties must comply with those rules unless they supersede it with a consent order. The text of the order will be found at www.nysd.uscourts.gov.

8. This case has been designated to the Hon. United States Magistrate Kevin N. Fox for resolution of discovery disputes. Do not contact Judge McMahon about discovery disputes; go directly to your assigned Magistrate Judge. Discovery disputes do not result in any extension of the discovery deadline or trial-ready date, and Judge McMahon must approve any extension of the discovery deadline in non-pro se cases. *The Magistrate Judge cannot change discovery deadlines unless you agree to transfer the case to the Magistrate Judge for all purposes.* Judge McMahon does not routinely grant extensions so counsel are warned that if they wait until the last minute to bring discovery disputes to the attention of the Magistrate

Judge, they may find themselves precluded from taking discovery because they have run out of time.

9. A joint pre-trial order in the form prescribed in Judge McMahon's individual rules, together with all other pre-trial submissions required by those rules (not including *in limine* motions), shall be submitted within **60 days** after the close of discovery. Following submission of the joint pre-trial order, counsel will be notified of the date of the final pre-trial conference. *In limine* motions must be filed within five days of receiving notice of the final pre-trial conference; responses to *in limine* motions are due five days after the motions are made. Cases may be called for trial at any time following the final pre-trial conference.

10. No motion for summary judgment may be served after the date the pre-trial order is due. *The filing of a motion for summary judgment does not relieve the parties of the obligation to file the pre-trial order and other pre-trial submissions on the assigned date.*

11. The parties may at any time consent to have this case tried before the assigned Magistrate Judge pursuant to 28 U.S.C. Section 636(c).

12. This scheduling order may be altered or amended only on a showing of good cause that is not foreseeable at the time this order is entered. *Counsel should not assume that extensions will be granted as a matter of routine.*

Dated: July 18, 2008
New York, New York

Upon consent of the parties:

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SO ORDERED:

Hon. Colleen McMahon
United States District Judge